

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

LARRY D. HORTON AND)
WILLMER OMAR PACHECO-LOPEZ,)
)
 Plaintiff,)
)
 VS.) No. 18-1241-JDT-cgc
)
)
 MADISON COUNTY SHERIFF'S)
 DEPARTMENT, ET AL.,)
)
 Defendants.)

ORDER GRANTING PLAINTIFF HORTON LEAVE TO
PROCEED *IN FORMA PAUPERIS* (ECF No. 15)
AND SEVERING PLAINTIFF PACHECO-LOPEZ'S CASE

On August 7, 2019, the Court dismissed from this matter all of the Plaintiffs except Larry D. Horton and Willmer Omar Pacheco-Lopez, granted Pacheco-Lopez leave to proceed *in forma pauperis*, and allowed Plaintiff Horton additional time to submit a copy of his trust account statement in order to determine whether he is entitled to pauper status. (ECF No. 23.)

On August 19, 2019, Horton submitted an affidavit swearing that he has made multiple attempts to obtain his trust account statement from prison officials but has been unable to do so. (ECF No. 24.) He also submitted a statement from a prison official notifying Horton that he has a negative account balance of \$298.65. (ECF No. 24-1 at PageID 99; ECF No. 24-2 at PageID 100.) The Court will not penalize Horton for prison

officials' unwillingness to provide him a copy of his trust account statement. *See McGore v. Wrigglesworth*, 114 F.3d 601, 607-08 (6th Cir. 1997), *partially overruled on other grounds by LaFountain v. Harry*, 716 F.3d 944, 951 (6th Cir. 2013). The information Horton has provided in his motion and affidavit satisfies his burden of demonstrating that he is unable to pay the civil filing fee. Accordingly, his motion for leave to proceed *in forma pauperis*, (ECF No. 15), is GRANTED in accordance with the terms of the PLRA. A separate order will be issued assessing Horton's *pro rata* share of the \$350 filing fee.

It is not practicable, however, for multiple *pro se* inmates to litigate their claims in a single action, even if their claims are similar. Therefore, the Court hereby SEVERS the claims of Plaintiff Pacheco-Lopez. The Clerk is DIRECTED to open a new civil action for Plaintiff Pacheco-Lopez and to docket in the new action a copy of the complaint (ECF No. 1), his motion for leave to proceed *in forma pauperis* (ECF No. 13), the previous order granting his motion (ECF No. 23), and this order.

The present case will proceed with Larry D. Horton as the sole Plaintiff. The Court will screen the complaint in accordance with 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b) as it pertains to each Plaintiff in separate orders.

IT IS SO ORDERED.

s/ James D. Todd
JAMES D. TODD
UNITED STATES DISTRICT JUDGE